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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/730,526	12/05/2000	Eduardo Ramirez de Arellano	LOSAS-0000	7475

24496 7590 04/25/2002

PATENT LAW OFFICES OF HEATH W. HOGLUND  
256 ELEANOR ROOSEVELT STREET  
SAN JUAN, PR 00918

EXAMINER

PARKER, FREDERICK JOHN

ART UNIT	PAPER NUMBER
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1762

DATE MAILED: 04/25/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/730526

Applicant(s)

Examiner

Group Art Unit

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 (ONE) MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☐ Responsive to communication(s) filed on \_\_\_\_\_
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1 - 20 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☒ Claim(s) 1 - 20 are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
  - ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

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*Election/Restriction*

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-13, drawn to Coating Method, classified in class 427, subclass 271.
  - II. Claims 14-20, drawn to Coating Composition, classified in class 106, subclass 713+. See note below.
2. The inventions are distinct, each from the other because of the following reasons:


Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the composition can be used for another and materially different process, such as application to an exterior decorative or functional wall; sidewalk; or building coating process in which removal of an exterior portion is not required.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
4. A telephone call was not made to Heath Hoglund on 4/24/02 to request an oral election to the above restriction requirement, because of the additional complex issue which requires resolution:

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Claims 14-16 raise the question of statutory class because there is no class for simply "providing"; for restriction, these are assumed to be "composition" claims. If this is not so, claims 14-16 may require additional placement as a separate group. Applicant is requested to clarify and respond appropriately.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred J. Parker whose telephone number is (703) 308-3474.

 **FRED J. PARKER  
PRIMARY EXAMINER**

Fred J. Parker

April 24, 2002